IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

WRIT PETITION NO : 4983 of 1995

Between:

M/s Mallikarjuna Rice Mill 18-4-42/1/B (Old)
18-4-42/4 (new) Sultan Bagh,
Shamsheer Gunj, Hyderabad, rep.by its Managing Partner, D.Nagabhushanam

..... PETITIONER

AND

1 State of A.P. rep.by its Secretary
Urban Ceiling, Secretariat, Hyderabad
2 The Commissioner of Land Reforms and Urban Land Ceilings
Nampally Station Road, Hyderabad
3 The Special Officer and Competent Authority Urban Land Ceiling
Chandravihar, Opp:Gandhi Bhavan Mukramjah Road,
Nampally Station Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass a writ, order or direction more particularly in the nature of writ of certiorari and pleased to quash the orders passed by the respondent No.3 in file No.B1/1830/76 Dt.26/02/1987 confirmed by the 2nd respondent in file No.UCL/1859/87, Dt.20/02/1995 as illegal, arbitrary and void.

Counsel for the Petitioner:MR.VIJAY KUMAR HEROOR

Counsel for the Respondents : GP FOR REVENUE

The Court made the following :

ORDER:

Heard learned counsel for the parties.

The only contention raised by the petitioner in this writ petition against the order passed by the appellate authority and also the appellate authority declaring the land as surplus in terms of the Urban Land (Ceiling and Regulation) Act, 1976 (for short "the Act") is that the declaration had been made by the petitioner firm claiming that the property belonged to three partners. This Court had summoned the record and while going through the pleadings and hearing the parties, I have also gone through the record. The record reveals that a declaration was made on behalf of M/s Sri Mallikarjuna Rice Mill and it was clearly mentioned that it is a partnership concern and names of partners were given. A copy of the deed of partnership was also annexed, which is revealed from the document itself. This declaration is signed by all the three partners. While conducting the proceedings under the Act, the Authorities considered this to be a one unit whereas the petitioner claims that being partners in equal shares, they were entitled to three units and as such could have retained 3000 square yards and not only 1000 square yards. Learned counsel for the respondent, however, submits that after notification under Section 8 of the Act was published, the petitioners did not appear although many opportunities were given to them. Even an appeal was filed before the appellate authority, which has been dismissed. Therefore, they cannot be now heard to say that the order was passed behind their back. I have gone through the order of appellate authority also. What I feel is that if the declaration was filed in terms of Section 6 of the Act, it was for the authorities to consider as to whether three partners of the firm were entitled to three holdings or one holding. It was immaterial whether the petitioner had appeared or not. For these reasons, I set aside the impugned orders including the order passed in appeal and remit the matter back to respondent No.3 to pass fresh order after hearing the petitioner in accordance with law. Any observations made in this order, have been made only for the purpose of passing of this order and shall not be taken as expression of opinion over the entitlement of the petitioner over the land which was declared surplus.

Accordingly, the writ petition is allowed. No order as to costs.

28-10-2004

GJ

To

1 The Secretary, State of A.P., Urban Ceiling, Secretariat, Hyderabad
2 The Commissioner of Land Reforms and Urban Land Ceilings
Nampally Station Road, Hyderabad
3 The Special Officer and Competent Authority Urban Land Ceiling
Chandravihar, Opp:Gandhi Bhavan Mukramjah Road,
Nampally Station Hyderabad

4. Two C.Cs. to the Government Pleader for Revenue, High Court of A.P., Hyderavad.(OUT)

5. Two C.D. copies.